

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of:	Haruki NOJO <i>et al.</i>	Confirmation No:	6905
Serial No.:	10/534,699	Art Unit:	NA
Filed:	May 13, 2005	Examiner:	To be assigned
For:	CHEMICAL MECHANICAL POLISHING COMPOSITION AND PROCESS	Attorney Docket No:	063254-0233-US

**PETITION PURSUANT TO 37 C.F.R. 1.137 (b) TO REVIVE AN UNINTENTIONALLY
ABANDONED PATENT APPLICATION**

U.S. Patent and Trademark Office
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, Virginia 22314 - **PETITIONS**

Sir:

Pursuant to the provisions of 37 C.F.R. §1.137(b), Applicants hereby petition to revive the above-referenced application, which has been unintentionally abandoned for failure to respond to a Notice of Missing Parts mailed on November 9, 2007, which was not received by the Applicants or the attorney. Thus, the date of unintentional abandonment was on June 9, 2008.

This application was filed as a national stage on May 13, 2005. Applicants did not receive any confirmation document or correspondence from the United States Patent and Trademark Office ("USPTO"). Accordingly, Applicants attempted to contact the USPTO on several occasions to enquire about the status of this application. Applicants filed a first status enquiry on March 8, 2006, to which there was no response. Thereafter, the undersigned made numerous telephone calls to the USPTO's OIPE department and PCT department in an attempt to secure information regarding the status of this application. Private PAIR was also unavailable for some time in this matter. Accordingly, the undersigned contacted the USPTO's PCT

department on January 8, 2006, February 15, 2006, May 25, 2007 and October 8, 2007 respectively. Each time, the customer service representative informed the undersigned that the application was with the technical support unit. Most recently, the undersigned contacted the USPTO on June 30, 2008 and spoke with Mr. Patrick Lewis who informed the undersigned that a notice of missing parts was mailed out on November 9, 2007. Unfortunately, Applicants never received this notice of missing parts, which prompted the undersigned to place the call on June 30, 2008. Mr. Lewis faxed a copy of the notice of missing parts to the undersigned on 07/01/2008. Soon thereafter, Applicants attempted to contact the inventors in Japan to execute the declaration and assignment forms. However, given the fact that some of the inventors had left DA Nanomaterials Inc., Applicants required additional time to find the inventors and have them complete the Missing Parts requirement, which resulted in delay in replying to the missing parts action.

The above facts show that Applicants were diligent in attempting to move this application. Applicants' response and required executed documentation to complete the missing parts is attached with this Petition.

The present Petition is being filed pursuant to 37 C.F.R. § 1.137(b), which governs petitions based upon unintentionally abandoned patent applications. This section has four requirements:

- (1) The reply required to the outstanding Office action or notice, unless previously filed;
- (2) The petition fee as set forth in § 1.17(m);
- (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional; and
- (4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

Accordingly, this Petition is accompanied by:

- (1) The required reply to the Office Action mailed on **November 9, 2007**; and
- (2) The petition fee required under 37 CFR 1.17(m) of **\$130.00**, which is to be deducted from Deposit Account 50-0310 to revive the unintentionally abandoned application. (Additional fees authorized are the Missing Parts Surcharge \$130.00 plus five (5) extensions of time (\$2,350.00 – for a total of **\$2,610.00**).
- (3) Applicant hereby states that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable Petition pursuant to 37 CFR 1.137 (b)(3) was unintentional.
- (4) No terminal disclaimer is required.

Having met the requirements of 37 C.F.R. § 1.137(b), Applicants respectfully request that the Commissioner grant this petition to revive the above-identified U.S. patent application.

Applicants submit that the instant application went abandoned because Applicants did not receive the Notice of Missing Parts. It is possible that although the correspondence address is Morgan Lewis & Bockius LLP, Customer Number 09629, the mail may have been redirected to attorney Christopher Hayden who is no longer with this firm. Applicants, therefore, request a fee waiver for this petition. However, if the revival fee is necessary for this petition then the Commissioner is hereby authorized by this paper to charge the fees under 1.17(m) of \$1,500 including any additional fees during the entire pendency of this application including fees due under 37 C.F.R. §§ 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account **50-0310**. This paragraph is intended to be a constructive petition for extension of time in accordance with 37 C.F.R. § 1.136(a)(3).

Respectfully submitted,

Date: November 4, 2008



Laba Karki Ph.D (Reg. No. 55,317)
Morgan, Lewis & Bockius LLP
1111 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
(202) 739-5590